

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

DEBORA D. TANNER, et al. )  
Plaintiffs, ) Case Number: 4:11-CV-01361-NAB  
v. )  
CITY OF SULLIVAN, et al. )  
Defendants. )

**MOTION TO STRIKE NEW ISSUES RAISED IN DEFENDANTS' REPLY  
MEMORANDUM AND FOR LEAVE TO FILE SUR-REPLY MEMORANDUM IN  
OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

COME NOW Plaintiffs, and move the Court to enter its order granting Plaintiffs' Motion to Strike New Issues Raised in Defendants' Reply Memorandum and for Leave to File Sur-Reply Memorandum in Opposition to Defendants' Motion for Summary Judgment and state as follows:

1. Defendants filed a Reply Memorandum to Plaintiffs' Memorandum in Opposition to Defendants' Motion for Summary Judgment (Doc. #124) (hereinafter "Reply").
2. Defendants' Reply raises new issues that Plaintiffs move to strike because said issues were not raised in Defendants' Motion for Summary Judgment (Doc #84) or Defendants' Memorandum in Support of Defendants' Motion for Summary Judgment (Doc. #85) (hereinafter "Support Memorandum").
3. Defendants' Reply reframes arguments made in Defendants' Support Memorandum, which Plaintiffs are unable to address without leave to file their Sur-Reply.

4. Defendants' Reply attempts to shift Defendants' burden as the movant onto Plaintiffs and, in so doing, Defendants ignore facts in the record which directly contradict their positions and incorrectly presume Plaintiffs' agreement on material issues in dispute.

5. For further support, Plaintiffs have filed herein Plaintiffs' Memorandum in Support.

WHEREFORE, Plaintiffs pray that the Court enter its Order granting Plaintiffs' Motion to Strike New Issues Raised in Defendants' Reply Memorandum and for Leave to File Sur-Reply Memorandum in Opposition to Defendants' Motion for Summary Judgment on or before November 19, 2012.

Respectfully submitted,

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**Certificate of Service**

I hereby certify that a copy of the foregoing was filed electronically with the Clerk of the Court this 9<sup>th</sup> day of November, 2012, to be served electronically by operation of the Court's electronic filing system upon the following:

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